IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1108 OF 2007

Baban Baliram Kalap & Ors. .. Petitioners

V/s

Shekhar Keshav Yadav & Anr. .. Respondents

Mr.Kiran Bapat with Mr.Avinash Fatangare for the Petitioners.

Mr.A.K. Jalisatgi for Respondent No.1.

CORAM : H.L. GOKHALE, ACG. CJ. &
V.M. KANADE, J.

DATE : 20TH FEBRUARY 2007

P.C. :

1. Heard Mr.Bapat for the Petitioners and Mr.Jalisatgi for Respondent No.1.

2. Rule. Rule is made returnable forthwith.

3. The Petitioners have filed an application under section 28(1A) of the Trade Union Act, 1926 for removal of Respondent No.1 as the President of a Trade Union known as "Shahid Marutirao Jadhav Ricksaw Chalak Malak Union". This Union is functioning at Ulhasnagar. An application was first decided by Respondent No.2 by

holding that Respondent No.1 is not a member of the Union and that is how earlier an order was passed rejecting the application. The question as to whether he was the President or not was not decided. The Petitioners, therefore, filed a writ petition in this Court bearing Writ Petition No.7710 of 2006. A Division Bench, which heard that petition on 11th December 2006, set aside that order and directed Respondent No.2 to decide the particular question.

4. Mr.Bapat, learned counsel for the Petitioners, makes a grievance that once again almost the same order has been repeated except addition of a particular paragraph of rejecting the application.

5. Apart from this grievance of Mr.Bapat, Mr.Jalisatgi, learned counsel for Respondent No.1, joins him in making a request that the particular application being Application (ICTU) No.1 of 2005 be transferred to another court at Thane. Inasmuch as this request is being jointly made by both the contesting parties, we request the President of the Industrial Court, Mumbai to transfer that proceeding to another Industrial Court at Thane. The President of the Industrial Court, Mumbai is requested to pass this order within one week from the receipt of this order. The learned Judge, to whom the

proceeding will be transferred, is requested to hear and decide the Application (ICTU) No.1 of 2005 within 4 weeks from the application being allotted to him. This is because the recording of evidence is already over. Only the counsel appearing for both the parties are to be heard and then the decision is to be taken.

6. Without prejudice his contentions, Mr.Jalisatgi is agreeable to the impugned order being set aside. Accordingly, the impugned order is quashed and set aside with a further direction as stated above.

7. Rule is made absolute as above.

ACTING CHIEF JUSTICE

V.M. KANADE, J.